

States. They asked questions to find out what Mr. Olson did, and what he knew. It was not just a question of whether Mr. Olson did something illegal or improper. Each Senator was and is entitled to make his or her own judgment about whether Mr. Olson's involvement with the Arkansas Project, whatever it was, is relevant to his fitness to serve as Solicitor General. We were entitled to complete and forthcoming answers to the questions that were asked. We did not get them.

Mr. Olson's failure to be forthcoming in his testimony has led me to have concern about his ability to serve as Solicitor General, especially given the special duties of that office. I would not vote against him simply because of his conservative views and record. I am concerned about his fitness to be Solicitor General.

Mr. Olson testified that the Solicitor General owes the Supreme Court "absolute candor and fair dealing." I think that nominees owe Senate committees that same duty when they testify at nominations hearings. I do not think that Mr. Olson met that standard and I don't think the process surrounding this nomination has allowed Senators adequately to consider this important exercise of their duty to advise and consent. I therefore, with regret, must oppose his nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Theodore Bevery Olson, of the District of Columbia, to be Solicitor General of the United States? On this question the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 167 Ex.]

YEAS—51

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Craig	Kyl	Stevens
Crapo	Lott	Thomas
DeWine	Lugar	Thompson
Domenici	McCain	Thurmond
Ensign	McConnell	Voinovich
Enzi	Miller	Warner

NAYS—47

Akaka	Boxer	Carper
Baucus	Breaux	Cleland
Bayh	Byrd	Clinton
Biden	Cantwell	Conrad
Bingaman	Carnahan	Corzine

Daschle	Inouye	Murray
Dayton	Johnson	Nelson (FL)
Dodd	Kennedy	Reed
Dorgan	Kerry	Reid
Durbin	Kohl	Sarbanes
Edwards	Landrieu	Schumer
Feingold	Leahy	Stabenow
Feinstein	Levin	Torricelli
Graham	Lieberman	Wellstone
Harkin	Lincoln	Wyden
Hollings	Mikulski	

NOT VOTING—2

Jeffords	Rockefeller
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The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that when the next votes begin, which will be momentarily, they be 10-minute rollcalls.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as I stated at the beginning of this debate, of course I respect the will of the Senate and the vote of every Senator.

I hope now that Mr. Olson has been confirmed as Solicitor General, he will listen very carefully to the debate and handle that position with the non-partisanship and candor the office requires. I congratulate him on his confirmation and wish him and his family well.

I yield the floor.

NOMINATION OF VIET D. DINH TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the clerk will report the nomination.

The legislative clerk read the nomination of Viet D. Dinh of the District of Columbia to be an Assistant Attorney General.

Mr. HATCH. Mr. President, I strongly support the nominations of Michael Chertoff to be Assistant Attorney General for the Criminal Division and Viet Dinh to be Assistant Attorney General for the Office of Policy Development.

Both nominees have outstanding qualifications. Mr. Chertoff graduated with honors from both Harvard College and Harvard Law School, then served as a law clerk for Justice Brennan of the U.S. Supreme Court. He also served as an Assistant U.S. Attorney for the Southern District of New York, and as the U.S. Attorney for the District of New Jersey. In 1994, Mr. Chertoff served as Special Counsel for the U.S. Senate Special Committee to Investigate Whitewater and Related Matters. Most recently he has worked as a partner at the prestigious law firm of Latham & Watkins, where he is national chair of the firm's white collar criminal practice. He was also appointed Special Counsel by the New Jersey Senate Judiciary Committee in its inquiry into racial profiling by state police. As his distinguished career illustrates, Mr. Chertoff is well suited to lead the Department of Justice Criminal Division—which explains why his nomination has received significant bipartisan support.

Viet Dinh is likewise eminently qualified for the position of Assistant Attorney General for the Office of Policy Development. As Mr. Dinh told us during his confirmation hearing, he came to this country from Vietnam when he was ten years old under extraordinarily difficult circumstances. He went on to graduate from Harvard College and then Harvard Law School with honors. Mr. Dinh completed two federal clerkships, one for Judge Laurence Silberman on the U.S. Court of Appeals for the D.C. Circuit, and the other for Justice Sandra Day O'Connor on the Supreme Court. He then served as Associate Special Counsel to the Senate Special Committee to Investigate Whitewater. In 1996, he became a professor at Georgetown University Law Center, where he received tenure last year. His academic writings evince a sharp legal mind and keen judgment—attributes that are essential to lead the Office of Policy Development.

Both Mr. Dinh and Mr. Chertoff have distinguished themselves with hard work and great intellect. I am confident that they will do great service to the Department of Justice and the citizens of this country, and I support their nominations wholeheartedly.

Mr. DOMENICI. Mr. President, I rise today in support of Viet Dinh, the President's nominee to be Assistant Attorney General for the Office of Policy Development. I have had the pleasure of knowing him both professionally and personally over the past several years and cannot imagine a more qualified candidate for this position.

Professor Dinh's journey began 23 years ago on a small fishing boat off the coast of Vietnam. For 12 days, the ten-year-old Viet and 84 others fought storms, hunger, and gunfire as their boat drifted in the South China Sea. Fortunately, Viet, his mother, and six siblings, reached a refugee camp after coming ashore in Malaysia. After being admitted to the United States Viet's family arrived in Oregon and later moved to California, where Viet became a U.S. citizen.

Those early years presented many challenges for Viet and his family. They had little money and worked long hours in the berry fields. Moreover, Viet's father had been incarcerated in Vietnam because of his role as a city councilman. It was not until 1983 that they were finally reunited after his father's successful escape from Vietnam.

Despite this tumultuous beginning, Dinh persevered. More than that, he excelled. Perhaps those early obstacles hardened Viet's resolve and fueled his rapid ascent through the legal profession.

Viet graduated *magna cum laude* from both Harvard College and Harvard Law School, where he was a class marshal and an Olin Research Fellow in law and economics. He served as a law clerk to Judge Laurence H. Silberman of the U.S. Court Appeals for the D.C. Circuit and to U.S. Supreme Court Justice Sandra Day O'Connor.

Shortly after Viet completed his Supreme Court clerkship, he came to work for the U.S. Senate, where I had the opportunity to work with him for the first time. He quickly demonstrated his outstanding legal ability, superb professional judgment, and fine character.

Professor Dinh's record of achievement continued in academia. Viet currently is a professor of law at Georgetown University, where he is the deputy director of the Asian Law and Policy Studies Program. In addition to his expertise in Asian law, Professor Dinh is accomplished in constitutional law, corporate law, and international law. He has also served as counsel to the special master mediating lawsuits by Holocaust victims against German and Austrian banks.

Since he left the Senate, I have called on him from time to time for counsel on constitutional issues. On each occasion, Viet exhibited a comprehensive knowledge of the law and extraordinary energy.

In closing, I believe that Professor Dinh's character, along with his distinguished academic and professional accomplishments, make him uniquely qualified to serve in the Department of Justice. It is, thus, with great pleasure that I will vote for his confirmation.

Mr. LEAHY. Mr. President, I am prepared to vote in favor of Professor Dinh's nomination to be the Assistant Attorney General for the Office of Policy Development at the Department of Justice. I do so, however, with reservations.

Like other members of the committee, I admire Professor Dinh and his family for the courage they displayed during their extraordinary journey to this country from Vietnam. I also do not question Professor's Dinh's obvious intelligence or his academic achievements. If we were evaluating a nominee for a teaching position, I would vote for him without hesitation.

However, I am concerned by Professor Dinh's relative lack of experience for the position in the Department of Justice for which he has been nominated. One of the major responsibilities of the Office of Policy Development at the Department of Justice, which Professor Dinh has been nominated to head, is the evaluation of the qualifications and fitness of candidates for the Federal judiciary. Yet Professor Dinh, as he concedes, has never appeared as an attorney in a court of law. Aside from being a law clerk and an academic, Professor Dinh's principal real-world experience since graduating from law school in 1993 has been as associate counsel to the Republicans in the Senate Whitewater investigation of President Clinton. While that was no doubt an excellent introduction to the world of partisan politics, it hardly provides a model of the apolitical and unbiased pursuit of justice that ought to characterize the operations of the United States Department of Justice.

I am also concerned by Professor Dinh's testimony about his involve-

ment with the Federalist Society. In answer to questions by Senator DURBIN, Professor Dinh testified that he did not know whether the Federalist Society had a stated philosophy and that he viewed it simply as "a forum for discussion of law and public policy from both sides." (Tr. 71, 73). Yet the Federalist Society itself states quite prominently on its internet website that it is "a group of conservatives and libertarians interested in the current state of the legal order" and concerned with the alleged domination of the legal profession "by a form of orthodox liberal ideology which advocates a centralized and uniform society." I do not, of course, suggest that membership in the Federalist Society should disqualify someone from public office, any more than should membership in other organizations such as the American Civil Liberties Union that seek to promote a particular political philosophy or agenda. Nevertheless, it is simply not accurate to portray the Federalist Society as a non-partisan debating society.

In his writings, Professor Dinh, like other members of the Federalist Society, has condemned what is sometimes called "judicial activism." However, when I asked Professor Dinh in my written questions to cite some specific cases where courts that had occurred, the only example he provided was a California decision from 1854 that dealt with the disqualification of persons of Chinese ancestry from testifying in court. While obviously no one would disagree with Professor Dinh's condemnation of that odious decision, his answer is not particularly enlightening as to what he views as the proper limits on the role of the judiciary in the 21st century. Many legal scholars regard the Supreme Court's decision in *Bush v. Gore* as a recent and obvious example of a court's overstepping its role and improperly injecting itself into the political arena. Yet, when I asked Professor Dinh specifically about that case in my written questions, he stated that, in his opinion, the Supreme Court Justices had "exercised their judgment in a thoughtful and prudent manner given the nature of the case, the rulings below and the constraints of time."

Despite my misgivings, I have decided to vote in favor of Professor Dinh's nomination. I believe that he has answered the Committee's questions. I am giving him the benefit of all doubts and giving deference to the President's decision with respect to this appointed policy position. Moreover, regardless of Professor Dinh's political views and associations, I credit his assurances that he will exercise his judgment based upon the merits of legal positions and judicial candidates he is called upon to evaluate rather than on political ideology.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Viet D. Dinh, of the Dis-

trict of Columbia, to be an Assistant Attorney General? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 168 Ex.]

YEAS—96

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Helms	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Inouye	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NAYS—1

Clinton

NOT VOTING—3

Jeffords Kohl Rockefeller

The nomination was confirmed.

NOMINATION OF MICHAEL CHERTOFF TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the clerk will report the nomination.

The assistant legislative clerk read the nomination of Michael Chertoff, of New Jersey, to be an Assistant Attorney General.

Mr. CORZINE. Mr. President, I am pleased to support the nomination of Michael Chertoff to be Assistant Attorney General for the Criminal Division. Mr. Chertoff has ably served the citizens of New Jersey in numerous capacities, as well as the Department of Justice and indeed the Nation. We will all be fortunate to have his tremendous skills at the helm of the Criminal Division.

Mr. Chertoff has impeccable credentials, not the least of which is being a native New Jerseyan. He attended Harvard College, then Harvard Law